

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ACS RECOVERY SERVICES, INC.,

Plaintiff,

v.

DAVID SANDREW,

Defendant.

ANSWER

Docket No.: 08 CV 4921 (DAB)
ECF Case

Defendant, DAVID SANDREW, by his attorneys, CONNORS & VILARDO, LLP, as and for an Answer to Plaintiff's Complaint, states:

1. Defendant, DAVID SANDREW, denies the allegations contained in paragraphs 5, 20, 21, 23, 26, 27, and 29 of the Plaintiff's Complaint.

2. Defendant, DAVID SANDREW, denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 4, 6, 7, 8, 9, 12, 13, 16, 19, and 28 of the Plaintiff's Complaint.

3. Defendant, DAVID SANDREW, admits the allegations contained in paragraphs 14, 15, 17, 18, and 22 of the Plaintiff's Complaint.

4. Answering paragraphs 1, 2, 3, 10, and 11 of the Plaintiff's Complaint, no response is necessary as the allegations assert legal conclusions, but insofar as a response may be deemed necessary, the defendant denies knowledge or information sufficient to form a belief as to the allegations contained in these paragraphs.

5. Answering paragraph 24 of the Plaintiff's Complaint, no response is necessary as the allegations asserted legal conclusions, but insofar as a response

may be deemed necessary, the defendant denies the allegations contained in that paragraph.

6. Answering paragraph 25 of the Plaintiff's Complaint, the defendants repeats and realleges each and every answer to the allegations contained in paragraphs 1 through 24 with the same force and effect as if fully set forth herein.

7. Defendant, DAVID SANDREW, denies each and every other remaining allegation in the Plaintiff's Complaint not herein before specifically admitted or otherwise denied.

FIRST AFFIRMATIVE DEFENSE

8. The alleged cause of action asserted in the Plaintiff's Complaint was not commenced within the applicable statute of limitations of this action and it is barred by the statute of limitations.

SECOND AFFIRMATIVE DEFENSE

9. Service upon the person of this defendant was improper and therefore the Court lacks jurisdiction over the person of the defendant.

THIRD AFFIRMATIVE DEFENSE

10. This Court lacks subject matter jurisdiction in this matter.

FOURTH AFFIRMATIVE DEFENSE

11. The Complaint fails to state a cause of action upon which relief can be granted against the defendant, and should be dismissed.

FIFTH AFFIRMATIVE DEFENSE

12. Plaintiff's claims are barred by laches.

SIXTH AFFIRMATIVE DEFENSE

13. Plaintiff's claims are barred by waiver.

SEVENTH AFFIRMATIVE DEFENSE

14. Plaintiff's claims are barred because they have failed to join necessary and indispensable parties to this action.

EIGHTH AFFIRMATIVE DEFENSE

15. Any and all loss or damages sustained by plaintiffs were caused by the act, actions, or omissions of third parties.

WHEREFORE, the Defendant, DAVID SANDREW, herein demands judgment dismissing the Plaintiff's Complaint, together with the costs and disbursements of this action, and such other additional relief as the Court may deem just and proper.

DATED: Buffalo, New York
August 29, 2008

s/ James W. Grable, Jr.
James W. Grable, Jr., Esq.
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SDNY # JG3931

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AFFIDAVIT OF SERVICE

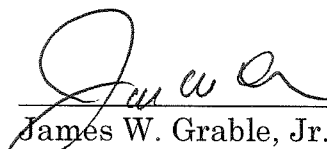
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DAVID SANDREW,

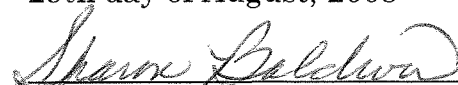
Defendant.

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

JAMES W. GRABLE, JR., ESQ., being duly sworn, deposes and says
that he electronically filed the foregoing Answer with the Clerk of the District Court
using its CM/ECF system, which would then electronically notify the following
CM/ECF participants on this case: Alexander Bowie II, Esq. and Stefanie
Kastrinsky, Esq., on this 29th day of August, 2008.


James W. Grable, Jr., Esq.
CONNORS & VILARDO, LLP
Attorneys for Defendant,
David Sandrew
1000 Liberty Building
Buffalo, New York 14202
(716) 852-5533
jwg@connors-vilardo.com
SDNY # JG3931

Sworn to before me this
29th day of August, 2008


Notary Public

SHARON BALDWIN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Nov. 30, 2010